

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

BRIAN TACKETT

PLAINTIFF

VS.

CIVIL ACTION NO.: 3:23-cv-200-MPM-JMV

KATRINA FELLER, ET AL.

DEFENDANTS

REPORT AND RECOMMENDATION OF DISMISSAL

This matter comes before the court *sua sponte* for consideration of dismissal as explained hereafter. On September 21, 2023, this court entered an Order to Show Cause [10] due to Plaintiff's failure to serve the defendants within the time for doing so provided by Federal Rule of Civil Procedure 4(m). This action was filed on May 30, 2023 [1], and Plaintiff amended his complaint on June 12, 2023 [4]. It has been well over ninety (90) days, and none of the defendants have been served. Plaintiff was ordered to show satisfactory good cause within ten (10) days as to why he has not yet effectuated service of process of the amended complaint upon the defendants. No response to this Court's Order to Show Cause [10] was filed.

In the Order to Show Cause [10], the pro se Plaintiff was advised that Rule 4(m) provides that "[i]f a defendant is not served within 90 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant" FED. R. CIV. P. 4(m). Accordingly, the undersigned recommends that the amended complaint [4] be dismissed without prejudice against the defendants.

The parties are referred to L. U. Civ. R. 72(a)(3) for the applicable procedure in the event any party desires to file objections to the findings and recommendations herein contained. The parties are warned any such objections are required to be in writing and must be filed within fourteen (14) days of this date. Failure to timely file written objections to the proposed findings,

conclusions and recommendations contained in this report will bar an aggrieved party, except upon grounds of plain error, from attacking on appeal unobjected-to proposed factual findings and legal conclusions accepted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415 (5th Cir. 1996).

Respectfully submitted this, the 5th day of October, 2023.

/s/ Jane M. Virden
UNITED STATES MAGISTRATE JUDGE